

Appl. No. 10/708,051
Docket No. PES-D-03-008/PES-0188

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REMARKS / ARGUMENTS

In the Advisory Action paper dated January 23, 2007, the Examiner stated that Applicant's amendments in the response paper dated December 26, 2006, would not be entered. Accordingly, the listing of claims set forth above are made with regard to the state of the claims as entered following Applicant's response paper dated June 22, 2006.

Status of Claims

Claims 1-32 are pending in the application and stand rejected. Applicant has amended Claims 1, 3, 4, 11, 13, 22, 24 and 32, and has added new Claim 33, leaving Claims 1-33 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(e)

Claims 1-4, 8-14, 18-25 and 27-32 stand rejected under 35 U.S.C. §102(e) as being anticipated by Czajkowski et al. (U.S. Patent No. 6,503,649, hereinafter Czajkowski).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference.

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Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985). Additionally, to establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) MPEP 2112.

On page 12 of the Final Action paper dated October 24, 2006, the Examiner acknowledged that Czajkowski does not explicitly disclose a circuit board/motherboard, but nonetheless applied implicit reasoning to conclude that Czajkowski must have some form of support for its electronics, and that the claimed motherboard when read broadly (as broad as the claim language permits) would read on any support implicitly present in Czajkowski.

To address this overly broad reading of the claimed motherboard, Applicant has amended independent Claims 1, 11 and 22 to now include limitations directed to some if not all of the following:

"...a first expandable motherboard configured to receive the plurality of interchangeable power converter modules, to receive three-phase AC input voltage, and to deliver DC output voltage;

each of the modules is coupled to the first motherboard to receive AC input voltage therefrom and to deliver DC output voltage thereto;

each of the modules have a selectable operating voltage and a voltage balancing device for providing a series or parallel building block for the first motherboard, thereby further enabling the first motherboard to have an expandable power rating..."

No new matter has been added as antecedent support can be found in the application as originally filed, such as at Paragraphs [0022], [0023], [0028-0030], [0043] and [0044], and in the various figures, for example.

Dependent claims inherit all of the limitations of the respective parent claim.

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Here, Applicant claims a motherboard that is not merely any kind of support, but a motherboard that receives three-phase AC input voltage and delivers DC output voltage. Additionally, the motherboard provides AC input voltage to each of the modules and receives DC output voltage from each of the modules, which are coupled to the motherboard.

In addition to the non-generic motherboard now claimed, Applicant has also further defined the interchangeable power converter modules to now have a selectable operating voltage and a voltage balancing device for providing a series or parallel building block for the motherboard, thereby enabling the motherboard to have an expandable power rating.

In comparing Czajkowski with the claimed invention as amended, Applicant not only finds Czajkowski to be absent explicit disclosure of a motherboard, but to also be absent any disclosure or teaching of the now claimed motherboard and power converter modules.

At column 1, lines 6-8, Applicant finds the Czajkowski invention to be directed toward a standalone unit, which by its very nature would not have a motherboard that receives three-phase AC input voltage, and Applicant finds Czajkowski to be absent such disclosure or teaching.

At Figures 1-3, Applicant finds the Czajkowski invention to be directed toward delivering 120 AC voltage via DC to AC converters, which by its very nature would not include a motherboard that delivers DC voltage.

At Figures 1-3, Applicant also finds the Czajkowski invention to be directed toward modules that deliver 120 AC voltage via DC to AC converters, which by its very nature would not include modules that receive AC input voltage and deliver DC output voltage.

In addition to the foregoing, Applicant finds no disclosure or teaching in Czajkowski to arrive at the claimed invention having power converter modules with a selectable operating voltage and a voltage balancing device for providing a series or

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parallel building block for the motherboard, thereby enabling the motherboard to have an expandable power rating.

In view of the foregoing, Applicant submits that Czajkowski does not disclose or teach each and every element of the claimed invention arranged as claimed or arranged so as to perform as the claimed invention performs, and absent anticipatory disclosure in Czajkowski of each and every element arranged as claimed, Czajkowski cannot be anticipatory.

Regarding Dependent Claim 4 more specifically

Applicant has amended Claim 4 to additionally claim previously disclosed but unclaimed subject matter. No new matter has been added as antecedent support may be found in the application as originally filed, such as at Paragraph [0024] and in Figures 5A and 5B, for example.

For at least the reasons set forth above regarding the allowability of Claim 1, Applicant submits that Claim 4 is directed to allowable subject matter and respectfully requests entry and notice of allowance thereof.

Regarding Dependent Claim 32 more specifically

Applicant has amended Claim 32 to now recite "...the plurality of interchangeable power converter modules receive a generated grid input voltage from the first motherboard, and provide a programmable output voltage in parallel to the electrochemical cell". No new matter has been added by this amendment as antecedent support may be found in the specification as originally filed, such as at Paragraph [0019] for example.

In alleging anticipation, the Examiner asserts "Czajkowski discloses the plurality of interchangeable power converter modules receive input voltage from the first motherboard [see statement concerning motherboard in claim 1 and in arguments below. The converters receive power from the fuel cells, which can be on its own motherboard/chassis or combined with that of the converter], and provide programmable output voltage in parallel to the electrochemical cell [the connection between the converters and the fuel cell is parallel, the voltage is programmable through the action of

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the controller 20 in Fig. 1-col. 6 lines 56-68 and col. 7 lines 1-6].” Final Action paper dated October 24, 2006, page 8.

Contrary to the claimed invention as amended, Applicant finds Czajkowski to disclose that “a free-standing local generation system ... that simulates the power reliability of a power grid, but generated within the physical boundaries of a service zone ...[and] replaces the multi-feed network of the commercial power grid...”. [Czajkowski, col. 4 lines 19-25].

In view of the foregoing, Applicant submits that Czajkowski is absent disclosure of the claimed “...the plurality of interchangeable power converter modules receive a generated grid input voltage from the first motherboard, and provide a programmable output voltage in parallel to the electrochemical cell”.

Accordingly, Applicant submits that Czajkowski does not disclose each and every claim element arranged as claimed, and absent anticipatory disclosure, Czajkowski cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Czajkowski does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory.

Accordingly, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) have been traversed, requests that the Examiner reconsider and withdraw these rejections, which Applicant considers to be overcome.

Rejections Under 35 U.S.C. §103(a)

Claims 5-7, 15-17 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Czajkowski in view of Nomura (U.S. Publication No. 2001/0012207, hereinafter Nomura).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element

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of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Dependent claims inherit all of the limitations of the respective parent claim and any intervening claim.

The Examiner acknowledges that Czajkowski is deficient in anticipating the claimed invention, and looks to Nomura to cure these deficiencies.

Claims 5-7, 15-17 and 26 are dependent claims. In view of Applicant's remarks set forth above regarding the allowability of the parent claims over Czajkowski, Applicant submits that Claims 5-7, 15-17 and 26 are allowable at least for the reason that they depend from an allowable claim.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, and fail to motivate one skilled in the art to do what the patent Applicant has done, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

Regarding New Claim 33

Applicant has added new Claim 33 to capture originally disclosed but unclaimed subject matter. No new matter has been added as antecedent support can be found in the application as originally filed, such as at Paragraph [0022] for example.

Applicant submits that Claim 33 is allowable at least for the reason that it depends from a now allowable claim, and further submits that the references fail to disclose or teach each and every element of Claim 33. Accordingly, allowance of Claim 33 and

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notice thereof is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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